

E-Filed 4/19/2010

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

LARRY JAMES HENSON,

Plaintiff,

v.

EMBASSY SUITES HOTEL, S. MILBURN, S.
BARBU, W. HAWKINS, AND G. PATASH,

Defendants.

Case Number C 10-00794 JF (HRL)

ORDER DENYING PLAINTIFF'S
APPLICATION FOR APPOINTMENT
OF COUNSEL

[re: docket no. 5]

Plaintiff Larry James Henson ("Plaintiff") filed the instant action on February 17, 2010, alleging that Defendants Embassy Suites Hotel, S. Milburn, S. Barbu, W. Hawkins, and G. Patash (collectively, "Defendants") discriminated against and terminated him because of his disability, in violation of Title VII of the Civil Rights Act of 1964. On March 9, 2010, after reviewing the financial information provided by Plaintiff, the Court determined that Plaintiff could pay the filing fee and denied his application to proceed *in forma pauperis* ("IFP"). IFP Application at 2-3 (indicating that Plaintiff received \$1,124.00 in monthly unemployment insurance, that his wife received \$1,734.00 in monthly social security insurance). Plaintiff now requests that the Court appoint counsel to represent him.

Pursuant to 42 U.S.C. § 2000e-5(f)(1)(B), a district court may appoint counsel in Title VII cases "in such circumstances as the court may deem just." In determining whether to appoint

1 counsel, the Court must assess three factors: “(1) the plaintiff’s financial resources; (2) the efforts
2 made by the plaintiff to secure counsel; and (3) whether the plaintiff’s claim has merit.” *See*
3 *Bradshaw v. Zoological Society of San Diego*, 662 F.2d 1301, 1318 (9th Cir. 1981) (citation
4 omitted).

5 The Court previously denied Plaintiff’s application to proceed *in forma pauperis*. For the
6 same reason, the Court will deny Plaintiff’s application for appointment of counsel. In addition
7 to having adequate financial resources, Plaintiff has not satisfied the second factor of the
8 *Bradshaw* test, as his effort to secure counsel has been limited to contacting four attorneys.
9 Application at 3. Plaintiff need not “exhaust the legal directory,” *Bradshaw*, 662 F.2d at 1319
10 (citation omitted), but he should at least contact a California State Bar-approved lawyer referral
11 service. Guidelines for Fed. Pro Bono Project of N.D. Cal. (the “Guidelines”) ¶ 1. Nor does he
12 explain why the attorneys he did contact declined to take his case. Application at 3. Because
13 Plaintiff fails to satisfy the first two *Bradshaw* factors, the Court expresses no opinion as to
14 whether Plaintiff’s claim has merit. Good cause therefor appearing, the application for
15 appointment of counsel is DENIED.

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19 IT IS SO ORDERED.

20 DATED: April 19, 2010

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JEREMY FOGEL
United States District Judge

1 This Order has been served upon the following persons:

2 Larry James Henson
3 1307 Soto Street
4 Seaside, CA 93955
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